

Remarks

Claims 1-20 are pending in the application, and each was rejected. By this paper, claims 1, 10 and 16 are amended. Consideration of the amended claims, and reconsideration of the remaining claims, are requested.

Claim Rejections—35 U.S.C. § 112

The Examiner rejected claims 1-9 under 35 U.S.C. § 112, second paragraph, and in particular, requested clarification of the term "an object housing". Applicant respectfully submits that claim 1 as originally written meets the requirements of § 112. Even if the term "an object housing" stood alone, it would reasonably be interpreted as a housing, and specifically, a housing for an object. Within the context of claim 1, the claim specifically recites that the object housing is configured "to selectively house an object to be displayed...." Thus, Applicant submits that based on the claim language itself, the term "an object housing" does not cause claim 1 to fail under § 112. Moreover, ample description of particular embodiments of object housings are given throughout the specification and drawing figures—e.g., paragraphs 0025, 0028 and 0031 of the specification, and Figures 1, 3 and 5.

Based on the foregoing, Applicant respectfully requests withdrawal of the § 112 rejection.

Claim Rejections—35 U.S.C. § 102

The Examiner rejected claims 1-4 and 7 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,000,410 (Tortorice). The MPEP states that "'a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.'" MPEP § 2131, 8th ed., Rev. 2 (citation omitted). The MPEP further states that "'the identical invention must be shown in as complete detail as is contained in the... claim.'" *Id.* (citation omitted). Because claims 1-4 and 7 each

contain elements which are neither expressly nor inherently described in Tortorice, Applicant submits that none of these claims is anticipated by that reference.

By this paper, claim 1 is amended to more particularly point out and distinctly claim the subject matter of the invention. In particular, amended claim 1 recites a toothbrush having "an object housing configured to be attached to the toothbrush body and to provide access into the housing by a user of the toothbrush to selectively house an object to be displayed...." No such elements are expressly or inherently found in Tortorice. Tortorice describes a toothbrush with a fillable, interchangeable hollow handle. The handle may contain a decorative fluid within a hollow interior portion. (Col. 3, ll. 51-52.) Unlike the toothbrush recited in claim 1 of the present application, however, the Tortorice toothbrush includes a handle portion that provides no access by the toothbrush user. Indeed, if the user wishes to change the decoration within the hollow interior of the handle component, the entire handle component must be replaced. (Col. 3, ll. 61-67.) Therefore, amended claim 1 of the present application includes elements which are neither expressly nor inherently described in Tortorice. Tortorice does not show the identical invention in as complete detail as is contained in amended claim 1. Therefore, with regard to amended claim 1 of the present application and Tortorice, the MPEP definition of anticipation is not met.

Amended claim 1 is the base claim for claims 2-4 and 7. Each of these dependent claims contains all of the limitations of amended claim 1, as well as additional limitations which further distinguish it from the cited reference. Therefore, with regard to each of these dependent claims and Tortorice, the MPEP definition of anticipation is not met.

The Examiner rejected claims 10 and 12-13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,687,940 (Gross et al.) or Tortorice. Because claims 10 and 12-13 each contain elements which are neither expressly nor inherently described in Gross et al. or Tortorice, Applicant submits that none of these claims is anticipated by either of the references.

By this paper, claim 10 is amended to more particularly point out and distinctly claim the subject matter of the invention. For example, amended claim 10 recites a toothbrush

having a visual access structure that is "configured for selectively receiving from a user of the toothbrush an object to be displayed...." No such elements are expressly or inherently found in Tortorice. As discussed above, Tortorice does not allow any access by a user of the toothbrush to the sealed, liquid-filled handle. Similarly, Gross et al. describes a toothbrush which may provide a handle made from two parts, at least one of which may be transparent, and a cavity within the handle which can be filled with decorative objects. (Col. 2, ll. 54-56.) Unlike the invention as recited in amended claim 10 of the present application, the toothbrush in Gross et al. does not provide access to the handle from a user of the toothbrush so that a visual access structure can selectively receive an object to be displayed. Rather, the toothbrush described in Gross et al. has handle parts which are "preferably welded to one another along the lines of contact, the cavity 8 being sealed along the welding lines." (Col. 3, ll. 52-54.)

The toothbrush in Gross et al. may alternatively have the two handle parts "joined together in the manner of a snap-in connection which preferably can not be detached by hand, the snap-in connection likewise having a sealing action." (Col. 3, ll. 60-62.) In addition, the toothbrush of Gross et al. may have the two parts of the handle "connected by adhesive bonding." (Col. 3, ll. 66-67.) Thus, just as with the toothbrush described in Tortorice, the toothbrush described in Gross et al. does not allow any access by a user of the toothbrush into the display area. Amended claim 10 is the base claim for claims 12 and 13, each of which has all of the limitations of amended claim 10, as well as additional limitations which further distinguish it from the cited references. Therefore, with regard to claims 10 and 12-13, and Gross et al. and Tortorice, the MPEP definition of anticipation is not met.

Claim Rejections—35 U.S.C. § 103

The Examiner rejected claims 5-6, 8 and 9 under 35 U.S.C. § 103(a) as being unpatentable over Tortorice. The MPEP states that in order to establish *prima facie* obviousness, all of the claim limitations of an invention must be taught or suggested by the prior art. MPEP § 2143.03, 8th ed., Rev. 2. Because each of claims 5-6, 8 and 9 has limitations which are neither taught nor suggested by Tortorice, Applicant submits that none of these claims are obvious in view of that reference.

As noted above, Tortorice describes a toothbrush with a hollow handle which may contain a decorative fluid. There is no access to the hollow decorative portion of the handle, which is completely sealed so as to contain the decorative fluid. Thus, not only does Tortorice fail to teach or suggest the limitations found in amended claim 1 of having an object housing which is configured "to provide access into the housing by a user of the toothbrush", but Tortorice actually teaches away from such an invention by virtue of the requirement that it must be sealed. Claim 5 depends directly from amended claim 1, and therefore contains all of the limitations of amended claim 1, as well as additional limitations which further distinguish it from the cited reference. Likewise, amended claim 1 is the base claim for claims 6, 8 and 9, and thus, each of these claims contains all of the limitations of amended claim 1, as well as additional limitations which further distinguish it from the cited reference. Therefore, with regard to claims 5-6, 8 and 9 and Tortorice, the MPEP requirements for *prima facie* obviousness are not met.

The Examiner rejected claims 11 and 14-15 under 35 U.S.C. § 103(a) as being unpatentable over Gross et al. or Tortorice. Amended claim 10 is the base claim for claims 11 and 14-15. As with amended claim 1, Tortorice fails to teach or suggest all of the claim limitations of amended claim 10. Amended claim 10 recites a toothbrush having a visual access structure that is "configured for selectively receiving from a user of the toothbrush an object to be displayed...." As discussed above, Tortorice describes a sealed handle containing a decorative liquid. Not only does Tortorice fail to teach or suggest all of the claims of amended claim 10, but Tortorice teaches away from amended claim 10 by requiring that no access be granted to the decorative material within the handle portion.

Similarly, Gross et al. describes a toothbrush that is specifically configured to have a sealed handle. As discussed above with regard to the anticipation rejections, Gross et al. contemplates a number of methods for ensuring that a two-part handle is properly sealed. Therefore, Gross et al. also fails to teach or suggest all of the claim limitations of amended claim 10, and further, like Tortorice, teaches away from the invention as recited in amended claim 10. Therefore, with regard to claims 11 and 14-15, which have amended claim 10 as a base claim, and Gross et al. or Tortorice, the MPEP requirements for *prima facie* obviousness are not met.

The Examiner rejected claims 16-20 under 35 U.S.C. § 103(a) as being unpatentable over Tortorice in view of Gross et al. By this paper, claim 16 is amended to more particularly point out and distinctly claim the subject matter of the invention. Specifically, amended claim 16 recites a toothbrush having a display window configured "for selectively receiving from a user of the toothbrush an object to be displayed...." No such limitations are taught or suggested by Tortorice or Gross et al. Indeed, as discussed above, both of these references directly teach away from the invention as recited in amended claim 16. Claims 17-20 each depend directly from amended claim 16, and therefore, each has all of the limitations of amended claim 16, as well as additional limitations which further distinguish it from the cited references. Therefore, with regard to claims 16-20 and Tortorice and Gross et al., the MPEP requirements for *prima facie* obviousness are not met.

The Examiner rejected claims 19-20 under 35 U.S.C. § 103(a) as being unpatentable over Tortorice in view of Gross et al. and further in view of U.S. Patent No. 6,375,376 (Hsu). As stated in the MPEP, "[o]bviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art." MPEP § 2143.01, 8th ed., Rev. 2. As noted above, modifying the toothbrush of Tortorice or Gross et al. to allow access to the display window, would be directly counter to the teachings of these references, each of which specifically states that the display portion is sealed. Thus, not only is there a lack of teaching, suggestion, or motivation to combine Tortorice, Gross et al. and Hsu, the references themselves teach away from such a combination.

Not only is there no teaching, suggestion, or motivation to combine the references, but if they are combined, the resultant combination is unsatisfactory for its intended purpose. Specifically, if the Tortorice or Gross et al. toothbrushes were modified to allow access by a user of the toothbrush to the display area, the display areas would no longer be sealed, which would render Tortorice and Gross et al. unsatisfactory for their intended purposes. The MPEP very clearly states that when a modification to a device renders it unsatisfactory for its


intended purpose, a lack of suggest or motivation to make the modification is indicated. MPEP § 2143.01, 8th ed., Rev. 2.

The MPEP also states that "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." *Id.* Not only does the prior art fail to suggest the desirability of the combination of Tortorice, Gross et al. and Hsu, it specifically suggests the undesirability of the combination, which would render the toothbrushes described in Tortorice and Gross et al. unsatisfactory for their intended purpose. Therefore, with regard to claims 19 and 20 and Tortorice, Gross et al. and Hsu, the MPEP requirements for *prima facie* obviousness are not met.

Accordingly, allowance of each of the pending claims is requested.

Respectfully submitted,

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